

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re: W. R. Grace & Co., et al.

Debtors

Ch 11
01-01139

**RESPONSE BY NEW YORK STATE DEPARTMENT OF TAXATION
AND FINANCE TO DEBTORS' TWENTY SECOND OMNIBUS OBJECTION
TO CLAIMS**

The New York State Department of Taxation and Finance by Elaine Z. Cole, Esq., of counsel, responds to the Debtors' twenty second objection to claims as follows:

1. The Debtors object to claims numbered 17757 and 17769.
2. Claim number 17757 has been paid in full and we agree with the Debtors' objection.
3. Claim number 17769 is correct as filed. It contains three assessments for sales taxes accrued post-petition.
4. The Debtor, W. R. Grace, Conn., filed sales tax returns for quarters ending August 31, 2005 and November 30, 2005, but they were filed late and were not paid in full.
5. A claim is presumptively valid unless the Debtor presents evidence to overcome the presumption. A bare assertion that the claim is incorrect, is insufficient, particularly where the Debtor filed returns admitting the liability.
6. The claim contains one assessment for quarter ending August 31, 2004, that is estimated because the Debtor failed to file a return. Under NY Tax Law section 1138, the Department may estimate the liability for failure to file a return.

Therefore, claim 17769 should be allowed as filed.

April 6, 2007

New York State Department
Of Taxation and Finance
_____/s/_____
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